

243850

STATE OF SOUTH CAROLINA

(Caption of Case)

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2008 - 159 - 5

(Please type or print)

Submitted by: Midlands Utility, Inc

SC Bar Number: 1365

Address: PO Box 887

Telephone: 803-359-4803

Lexington, SC 29071

Fax: 803-359-2374

Attn: Keith Parnell

Other:

Email: midlandsutility@gmail.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

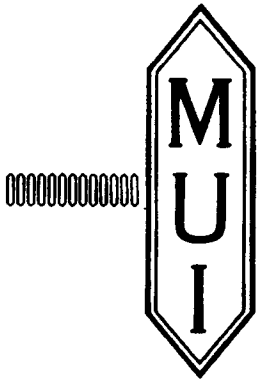
☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other: Contract Renewal

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input checked="" type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input checked="" type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

Print Form

Reset Form



MIDLANDS UTILITY, INC.

816 EAST MAIN STREET • P. O. BOX 887
LEXINGTON, SOUTH CAROLINA 29072
TELEPHONE: 359-4803

May 1, 2013

RECEIVED

MAY 06 2013

**PSC SC
MAIL / DMS**

Ms. Jocelyn Boyd
Chief Clerk / Administrator
The Public Service Commission of South Carolina
PO Drawer 11649
Columbia, SC 29211

RE: Contract Approval / Renewal with Orangeburg
Department of Public Utilities
Northwood Estates

Dear Ms. Boyd:

Please find the renewal contract for the above referenced facility. the previous contract renewal was under Docket No. 2008-159-S and Order No. 2008-396. Also enclosed is the cover letter from Orangeburg DPU.

Should you have any questions feel free to contact me.

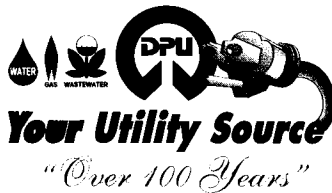
Sincerely,

MIDLANDS UTILITY, INC.


Keith G. Parnell, PE

encl.

cc: Charles Cook
ORS w/encl.



Department of Public Utilities

City of Orangeburg
1016 Russell Street
Post Office Box 1057
Orangeburg, South Carolina 29116-1057
(803) 268-4000 • Fax (803) 531-3803

O. Thomas Miller, Jr.
Manager

April 8, 2013

Mr. Keith G. Parnell, P. E.
Midlands Utility, Inc.
Post Office Box 887
Lexington, South Carolina 29071

RE: Northwood Estates Subdivision
Wholesale Wastewater Agreement

Dear Keith:

Enclosed please find a draft copy of a modified wholesale wastewater agreement for your consideration. Upon completion of your review, please let us know how you wish to proceed.

Once we have resolved any issues, we will send you two original copies for your signature. If you have any questions, please contact Randy Myers at (803) 268-4506.

Sincerely,

Richard M. Labrador, P. E.
Director
Wastewater Division

RML/dwc
WW-13-0060
Enclosure
cc w/o enclosure:
R. Myers
cc w/enclosure:
File 500-2.13

Mayor
Paul A. Miller

Members of Council
Charles B. Barnwell, Jr.
Bernard Haire
Charles W. Jernigan

Members of Council
L. Zimmerman Keitt
Sandra P. Knotts
Richard F. Stroman

STATE OF SOUTH CAROLINA,

WHOLESALE WASTEWATER AGREEMENT

COUNTY OF ORANGEBURG.

This agreement is entered into this _____ day of _____
200813, and executed in duplicate (each executed copy constituting an original) between the City of Orangeburg, State of South Carolina, a municipal corporation of the State of South Carolina (hereinafter referred to as "City"), and Midlands Utility, Inc., a utility licensed by the Public Service Commission (hereinafter referred to as "Midlands").

WHEREAS, the City now owns, operates and maintains facilities for collecting and treating a large supply of wastewater, and

WHEREAS, Midlands owns, operates and maintains facilities for collecting wastewater from its own retail customers; and

WHEREAS, Midlands desires to discharge wastewater on a wholesale basis to the City to help provide the needs of its wastewater customers; and

WHEREAS, it is deemed in the best interest of both Midlands and the City that said parties enter into a mutually satisfactory agreement whereby the City agrees to accept and Midlands agrees to discharge wastewater at the rates established in this agreement,

NOW, THEREFORE, BE IT KNOWN BY ALL MEN BY THESE PRESENTS, that in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

I. Duration and Terms

1. This agreement shall be in force and effect for a period ending five (5) years from the date of its execution, unless sooner terminated as provided in this agreement.

2. At the expiration of the initial term and for each term thereafter, if Midlands is in compliance with all terms and conditions of this agreement, this agreement shall automatically renew for a subsequent term of five (5) years.

3. If either party desires to terminate this agreement upon expiration of the initial term or any subsequent term, then it must do so by giving written notice to the other party at least twelve (12) months in advance of the expiration of the initial term or any subsequent term.

2 4. No officer, official or agent of either party has the authority to amend, modify or alter this agreement or waive any of its conditions or to bind the City by making any promise or representation not contained in this agreement except as modified by

ordinance passed by its City Council.

~~3~~ 5. This agreement and the capacity of wastewater agreed to be accepted by the City hereunder shall not be assigned or transferred by Midlands without the consent of the City.

~~4~~ 6. This agreement shall be subject to cancellation in the event a court of competent jurisdiction or regulatory agency or agencies restricts or limits, directly or indirectly, any of the City's rights to discharge wastewater into the Edisto River.

~~5~~ 7. The City shall not be responsible for damages or losses of Midlands or its customers for any interruption, stoppage, or failure to accept wastewater related to the operation of Midlands' system and shall be saved and held harmless and indemnified by Midlands from all damage of any kind, nature and description which may arise as a result of same.

~~6~~ 8. Title, possession and control of wastewater to be discharged under this agreement shall remain with Midlands to the point of delivery as provided in Section IV. At said point of delivery, title to, possession and control of the wastewater shall pass to the City. Midlands while in possession and control of the wastewater shall indemnify and save the City, its servants, agents, officers, and employees harmless from all loss or damages sustained (including legal fees incurred) and resulting from any actual or alleged negligence, gross negligence, intentional acts, or any other acts or omission of

Midlands, its employees, agents, or contractors.

II. Regulations

1. This agreement shall be subject to section 23-54.4, Use of the Public Sewers, of the City's Code of Ordinances (as may be amended), regulations of the South Carolina Department of Health and Environmental Control and the General Terms and Conditions of the City's Department of Public Utilities (as amended).

III. Rights

1. The City and Midlands reserve the right, either in law or equity, by suit, mandamus or other proceedings, to enforce or compel performance of any or all terms and conditions contained in this agreement.

2. Termination for nonpayment shall be governed by the then existing General Terms and Conditions of the City's Department of Public Utilities at time of non-payment. In addition to the right to discontinue service as otherwise provided herein, the City's Department of Public Utilities reserves the right to discontinue the acceptance of wastewater hereunder and terminate this agreement after giving sixty (60) days written notice of its intention to do so because of Midlands' refusal to fulfill any obligation or condition contained in this agreement or in the then existing City Sewer Ordinance,

presently entitled and codified as "Use of Public Sewers, Sec. 23-54.4 of the Code of Ordinances of the City of Orangeburg". The discontinuance of service for such cause shall not release Midlands from its obligation to pay all bills due in accordance with this agreement.

3. Midlands agrees not to allow any other person or entity located outside its existing Northwood Estates Subdivision, which is located or near U. S. Highway 301 N near the City's corporate limits, to discharge their sewage into the sanitary sewer system to be connected to the City's system under this agreement. Any and all extensions of service beyond that presently served shall be preceded by a written request made to the City accompanied by an accurate description of the addition. Upon receipt of written consent of the City for the inclusion of an additional area, additional charges shall be due and payable on the same schedule of time and amounts as for this agreement unless new rates and charges have been subsequently established by the City.

IV. Wastewater Quantities

1. The maximum amount of wastewater that the City's Department of Public Utilities will initially agree to accept is 38,000 gallons per day based on 95 residential equivalent units. This Contract may be amended to allow the aforementioned maximum discharge rate to be increased to a level that is mutually acceptable to both parties.

2. Wastewater shall be delivered to the City's Department of Public Utilities at the

point of delivery located at Joe S. Jeffords Highway and measured by applicable metering equipment located at the Midlands pump station. All wastewater under this Contract shall be measured by metering equipment at the Midlands pump station site and said metering equipment shall be maintained by the City at its expense. The City reserves the right to test or replace any meter at any time it deems necessary.

3. Midlands shall control and own the wastewater system up to the above described delivery point and shall, at its own cost and expense and in compliance with all governmental rules and regulations, operate, provide, maintain and repair its portion of the system for the purpose of providing its customers with adequate wastewater service. The City, at its own cost and expense, shall provide, maintain and repair all of its systems, connections and equipment serving or affecting service to the Northwood Estates Subdivision.

4. Midlands agrees to notify the City as promptly as possible of all emergencies and other conditions that may directly or indirectly affect the wastewater connections designated in this agreement. Midlands shall allow duly authorized engineers and inspectors of the City to make inspection of the condition that is causing the emergency or affecting the wastewater connection to the City. This inspection shall include any testing required by the City and shall be at Midlands' expense.

5. The City's Department of Public Utilities shall be responsible for the

maintenance of the meter. Routine maintenance of said meter site shall be the responsibility of Midlands. Such maintenance shall include, but is not limited to, grass cutting, edging, trimming etc.

6. Any and all metering equipment provided for herein shall be read at monthly intervals by the City's Department of Public Utilities. Either party shall have the right to read such metering equipment at any time. Each party shall have the duty to give immediate notice to the other party of any equipment found to be malfunctioning. Upon such discovery by or notice to the City's Department of Public Utilities, the City's Department of Public Utilities shall promptly arrange for the repair or replacement of any faulty equipment. Upon evidence that any metering equipment has inaccurately registered over a protracted period of time, quantities used for billing purposes shall be estimated by the City's Department of Public Utilities in accordance with usage under similar conditions for a comparable time period. When it is determined that the meter registered incorrectly, an estimate of the amount of wastewater through the faulty meter shall be prepared by the City's Department of Public Utilities for the purpose of billing Midlands. The estimate shall be based upon the average of twelve (12) preceding readings of the meter, exclusive of incorrect registration. Midlands shall have the right to request the testing of any metering equipment and appurtenances but such right to test shall be governed by the General Terms and Conditions of the City's Department of Public Utilities.

V. Wastewater Rates and Tap and Impact Fees

1. Midlands has paid to the City's Department of Public Utilities a one-time tap fee and impact fees for the existing 95 homes tied into Midlands' wastewater system. Additional impact fees will be charged for additional homes connected to the wastewater systems of the parties in accordance with the General Terms and Conditions of the City's Department of Public Utilities.

2. Midlands agrees to pay bills rendered each month for the wastewater actually discharged into the City's system during each billing period in accordance with the Wastewater Rate Schedule attached hereto as Exhibit I. Said rate schedule is subject to change, revision, alteration, or substitution either in whole or in part upon approval of the City Council of the City and any such change, revision, alteration, or substitution shall upon its effective date be made a part hereof as though fully written herein and shall void any prior provision herein in conflict therewith. The City's Department of Public Utilities shall furnish Midlands an itemized statement of charges for the amount of wastewater discharged into the system during each billing period. Payment of such statement shall be in accordance with provisions as contained in the General Terms and Conditions of the City's Department of Public Utilities. Termination of wastewater service for nonpayment shall be in accordance with the General Terms and Conditions of the City's Department of Public Utilities. The City shall not be held liable for damages incurred by

Midlands or any customer of Midlands as a result of termination of service for nonpayment. To insure the above payments, Midlands shall obtain and maintain an irrevocable letter of credit from a lending institution acceptable to the City ~~in the amount of \$7,000.00.~~ The amount of the letter of credit will be adjusted annually and will be determined by the two highest consecutive utility bill amounts received in the previous twenty-four (24) month period. The letter of credit shall be made payable to the City on written notice to the lending institution of a default which has not been cured within thirty (30) days after notice to Midlands. Upon such occurrence, the City may draw funds against the letter of credit in an amount necessary to pay all past due amounts and may continue to draw against the letter of credit for any additional payments which Midlands fails to make. Upon a complete drawdown of said letter of credit, the City shall have all termination rights provided herein.

3. The City reserves the right at any time during the term of this agreement to classify wastewater customers and to fix rates for each class. The City also reserves the right to fix rates for wastewater received from Midlands, other municipalities and of customers outside the corporate limits of the City higher than the rates fixed for wastewater customers within the corporate limits of the City, subject to such limitations as are then applicable by law. It is agreed that the City shall have the right from time to time, in its sole discretion, to change, amend, revise, or otherwise alter any rules, and/or regulations applicable to the acceptance of wastewater hereunder. This Contract shall be

subject to such changes, amendments, and/or revisions as long as consistent with the factors customarily proper and applicable for determining changes for other similar situated wastewater customers of the City. Midlands shall be notified in writing sixty (60) days prior to the effective date of any rate increase.

VI. Miscellaneous

1. If by reason of force majeure, either party hereto shall be rendered unable in whole or in part to carry out its obligations under this contract, then and in that event, said party shall give notice in writing to the other party within a reasonable time thereafter giving the full particulars of such force majeure. The obligations of the parties so affected shall thereupon be suspended and such suspension shall continue during the period in which such inability continues; provided however, that the disabled party shall endeavor with all reasonable dispatch to remove or overcome such inability. Provided further however, that this Section VI shall not affect the obligation of Midlands to make payments for services rendered as specified under Section V.

2. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, or the State of South Carolina, or any military authority, insurrection, riots, epidemics, landslides, earthquakes, fires, storms, hurricanes, floods, washouts, droughts, arrests, and restraints of Government and people, civil

disturbances, explosions, breakage or damage to machinery, canals, tunnels or pipelines, partial or total failure of wastewater system, and inability of the City's Department of Public Utilities to accept wastewater hereunder or Midlands to discharge wastewater hereunder for any reason or cause not reasonably within the control of the party claiming such inability.

3. Any notices required to be given hereunder shall be deemed to have been sufficiently given either party for all purposes hereof if failed by certified mail, to the following address:

The City:
Manager
Department of Public Utilities
Post Office Box 1057
Orangeburg, South Carolina 29116-1057

Midlands:
Midlands Utility, Inc.
Post Office Box 887
Lexington, South Carolina 29071

4. The parties hereto agree that the sections, paragraphs, sentences, clauses, and phrases of this Contract are severable; and if any phrase, clause, sentence, paragraph, or section of this Contract shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in duplicate, each of which is considered to be an original, thereby binding themselves, their successors, assigns, and representatives for the faithful and full performance of the terms and provisions of this Agreement.

IN THE PRESENCE OF:

CITY OF ORANGEBURG, STATE OF SOUTH CAROLINA

BY: _____
It's Manager

MIDLANDS UTILITY, INC.

BY: _____

TITLE: _____